

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18129 of 2017

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M/s Kushwaha Steel Furniture Through Its Proprietor Jaychand Prasad
Kushwaha S/o Uma Shankar Prasad R/o Village Koiriya Tola, Ward No.- 24,
P.O. and P.S.- Raxaul, District- East Champaran, Motihari, Bihar.

... .. Petitioner/s

Versus

1. Branch Manager, Indian Overseas Bank Branch Raxaul, East Champaran
Motihari
2. Indian Overseas Bank, Through its Regional Manager, Naseema House,
West Gandhi Maidan, Patna- 800001

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rakesh Kumar
	:	Mr.Rikesh Sinha
For the Respondent/s	:	Mr.Sanjay Singh Thakur

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT

Date : 24-06-2025

1. The writ petition is filed to set aside the possession notice dated 06.01.2017 issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 read with Rule 8 of the security interest (Enforcement) Rule, 2002 whereunder the respondent/Bank has given notice to the borrower and public in general for taking possession of the property described in the notice.



2. On perusal of the entire contents of the writ petition, it is evident that the petition is not maintainable, as an alternative remedy is available to the petitioner to challenge the orders before the DRT, if any such order has been passed by the DRT.

3. In **PHR Invent Educational Society v. UCO Bank and Others** (Civil Appeal No. 4845 of 2024), their Lordships of the Apex Court have held as follows:

“Ordinarily the High Court would not entertain a petition u/Art. 226 if an effective remedy is available to the aggrieved person...”

Likewise, in the matter of **Celir LLP v. Bafna Motors (Mumbai) Pvt. Ltd. and Ors.**, reported in **(2024) 2 SCC 1**, their Lordships of the Apex Court have held as follows:-

“97. This Court has time and again, reminded the High Courts that they should not entertain petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person under the provisions of the SARFAESI Act ...”

In the case of **United Bank of India v. Satyawati Tondon and Ors.** reported in **(2010) 8**



SCC 110, their Lordships of the Apex Court have held as follows:-

“43. ... the High Court overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions ...”

It is further held:-

“... the High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute.”

4. The principle stated in the above judgments squarely applies to the facts and circumstances of the present case. Therefore, the writ petition is dismissed as it is devoid of merit.

(G. Anupama Chakravarthy, J)

vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
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